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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON AT SPOKANE

PAUL E. STATLER, individually, TYLER W.
GASSMAN, individually, and ROBERT E.
LARSON, individually,

Plaintiffs,

v.

SPOKANE COUNTY, WASHINGTON, a
municipal corporation; DOUGLAS MARSKE
and WILLIAM FRANCIS,

Defendants.

No. 2:15-CV-00332-TOR

**COMPLAINT FOR DAMAGES AND
FOR VIOLATIONS OF CIVIL RIGHTS**

JURY DEMAND

COME NOW the above-named Plaintiffs, by and through their attorneys of record, Connelly Law Offices, PLLC, and by way of claim allege upon personal knowledge as to themselves and their own actions, and upon information and belief upon all other matters, as follows:

I. OVERVIEW

1.1 This case involves Defendants Spokane County and Det. Douglas Marske (“Marske”) and Det. William Francis (“Francis”)’s violation of Plaintiffs, Paul E. Statler, Tyler W. Gassman, and Robert E. Larson’s constitutionally protected right to due process under the Fourteenth Amendment to the United States Constitution through direct and

1 improper tampering with material witnesses, recklessly investigating the crimes that they
2 were accused of, failing to document and turn over material exculpatory evidence, and other
3 violations which both individually and cumulatively deprived these three young men of their
4 constitutional right to liberty through a fair criminal proceeding and a fair trial.

5 1.2 Marske and Francis pursued this investigation despite the fact that there was no
6 evidence connecting these three young men to these crimes and despite the fact that one of the
7 individuals involved had told them that these three young men had nothing to do with the
8 crimes. Marske and Francis continued to press forward, deliberately ignoring this evidence,
9 failing to document, disclose, and turn over material exculpatory evidence, and instead
10 threatened a material witness that he would be charged with perjury if he testified on behalf of
11 the defense. These threats were highly improper, were untrue, and directly resulted in these
12 three young men's conviction for a crime that they did not commit.

13 1.3 After spending approximately three years in prison Statler, Gassman, and
14 Larson contacted the Innocence Project Northwest ("IPNW"). The IPNW conducted an
15 investigation and found that substantial amounts of exculpatory information had not been
16 obtained in the police investigation, that the date of the crime had been changed based on
17 misleading and incomplete information obtained by Marske and Francis, and that a material
18 witness, Anthony Kongchunji had not been called at trial.

19 1.4 On December 14, 2012, Statler, Gassman, and Larson sought to have their
20 convictions vacated based on this new, previously undisclosed, evidence. The motions were
21 heard before the Honorable Michael P. Price who found that based on new, previously
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undisclosed evidence, that the convictions should be vacated. Judge Price entered findings of fact and conclusions of law on the motions on January 4, 2013 and vacated their convictions.

1.5 Even after the convictions were vacated Spokane County persisted in their relentless pursuit of these three young men. The charges were not dismissed and they were threatened with a re-trial. This was done even though there was absolutely no evidence connecting them to the crime, Marske and Francis had been involved in misconduct in both this case as well as subsequent cases where Marske was accused of providing a false affidavit. This exculpatory *Brady* evidence was not turned over to the defense and was withheld. Eventually, after many additional months of their liberty being threatened Spokane County finally agreed to dismiss the charges against them. By this time, they had been incarcerated for nearly five years and had been charged with four crimes that they did not commit.

1.6 Spokane County Marske and Francis' relentless pursuit of these three innocent men, failure to properly train and supervise its employees regarding proper investigative techniques, properly documenting and disclosing material exculpatory evidence, and with deliberately tampering with material witness testimony violated their constitutional right to liberty and due process under the Fourteenth Amendments to the United States Constitution.

II. PARTIES

2.1 Plaintiffs Paul E. Statler, Tyler W. Gassman, and Robert E. Larson are individuals currently residing in Spokane which is in the Eastern District of Washington.

2.2 Defendant Spokane County is a political subdivision located within the Eastern District of Washington.

2.3 Defendant Douglas Marske is a Sheriff's Deputy employed by the Spokane

1 County Sheriff's Office which is located in the Eastern District of Washington. Douglas
2 Marske's actions as described herein were done in furtherance of his position as a Spokane
3 County Sheriff's Deputy and were done under color of law.

4 2.4 Defendant William Francis was formerly a Sheriff's Deputy employed by the
5 Spokane County Sheriff's Office which is located in the Eastern District of Washington.
6 William Francis' actions as described herein were done in furtherance of his position as a
7 Spokane County Sheriff's Deputy and were done under color of law.

8 **III. JURISDICTION AND VENUE**

9 3.1 This Court has jurisdiction pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1367.

10 3.2 Venue is proper in the Eastern District of Washington pursuant to 28 U.S.C. §
11 1391 because Defendant Spokane County is located in this judicial district and because a
12 substantial portion of the events and omissions giving rise to this claim occurred in Spokane
13 County, Washington, within the Eastern District of Washington.

14 **IV. STATEMENT OF FACTS**

15 **A. Introduction.**

16 4.1 On February 17, 2009 Paul Statler, Tyler Gassman, and Robert Larson were
17 wrongly convicted of a crime that they did not commit. Their convictions were obtained
18 through false accusations and testimony of a teenager who admitted his own role in the crime
19 and was convinced by the police to testify against Statler, Gassman, and Larson in exchange
20 for a plea deal. There was absolutely no evidence connecting Statler, Gassman, and Larson to
21 any of the crimes and they had nothing to do with any of the crimes. The crimes were
22 committed by four other individuals: Anthony Kongchunji, Nicholas Smith, Larry Dunham,
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1 and Matthew Dunham.

2 4.2 The convictions were obtained through incredibly faulty, reckless, and
3 substandard police work, failing to perform an appropriate investigation, failing to properly
4 interview witnesses, ignoring material evidence, failing to document and turn over important
5 exculpatory information, and through directly tampering with and threatening a material
6 witness who had come forward voluntarily to testify in Statler, Gassman, and Larson's
7 defense. The testimony of this witness was material and would have made a difference in the
8 outcome of the trial. Marske and Francis learned that this witness intended to testify in
9 Plaintiffs' defense and threatened him that he would face perjury charges if he testified. As a
10 result of this false and unfounded threat the witness refused to testify at trial.

11 **B. 2008 "Drug-Rip" Robberies.**

12 4.3 In 2008 Anthony Kongchunji, Matthew Dunham, Larry Dunham, and Nicholas
13 Smith engaged in a series of robberies known as "drug-rip" robberies. Each of the robberies
14 targeted a known or suspected drug dealer, involved the same individuals dressed in dark
15 clothing with bandannas to hide their faces, and involved the use of a red pickup getaway car.
16 Each robbery involved stealing either money or drugs. There were five such robberies that
17 occurred in Spokane that year and three occurred within a week.

18 4.4 On April 23, 2008, Matthew Dunham, Larry Dunham, Nicholas Smith, and
19 Anthony Kongchunji were arrested on suspicion of robbery. Earlier that evening the four had
20 robbed two people whom they knew, Aramis Turner and Jenna Hall. During this robbery,
21 Turner/Hall recognized Anthony Kongchunji and Larry Dunham as two of the assailants.

22 4.5 The police were called and they went to Smith's apartment and found and
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1 detained all four individuals: Anthony Kongchunji, Nicholas Smith, Larry Dunham, and
2 Matthew Dunham. In the parking lot of Smith's apartment building, the police located the
3 vehicle used in the robbery, a red Nissan pickup belonging to the Dunhams' mother. The
4 police found a stolen purse and laptop in a nearby dumpster. The police also found evidence
5 linking these four men to the Turner/Hall robbery.

6 4.6 The police arrested Kongchunji, Smith, and the Dunhams and interrogated
7 them. Larry Dunham confessed, offering extensive details of the robbery. Smith also
8 confessed. Kongchunji asked for an attorney.

9 4.7 Matthew Dunham, who was only 17 years old when he was arrested,
10 repeatedly lied to police about his involvement in the robbery, repeatedly changing his story,
11 and lying about numerous aspects of the robbery. Matthew Dunham was originally booked
12 and sent to juvenile detention. Within two days however, he was transferred to the Spokane
13 County Jail where Kongchunji was being held. Once he was transferred to the Spokane
14 County Jail, Matthew Dunham was able to meet with Kongchunji who was housed in the
15 same section of the jail. Over the next several weeks, Kongchunji and Dunham talked every
16 day.

17 4.8 The drug-rip robberies were investigated by Spokane County detectives
18 Douglas Marske and William Francis. Even though there was absolutely no evidence
19 suggesting that Statler, Gassman, and Larson had anything to do with these robberies Marske
20 and Francis set their sights on Statler based on a rumor from a drug dealer. Marske and
21 Francis then set to work fabricating evidence to convict these young men of this crime.

22 4.9 The investigation was conducted in a substandard and reckless manner.
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1 Marske and Francis did not look for information leading to who actually committed the crime.
2 Instead, they worked to fabricate evidence in order to convict the Plaintiffs of these crimes.
3 Marske and Francis never sought a search warrant for the home of either Larson or Gassman.
4 Instead, Marske and Francis directed the Department of Corrections to search Statler's home.
5 The search uncovered no evidence related to any of the robberies. Nevertheless, Marske and
6 Francis stayed locked on Statler. Marske and Francis learned that Statler had a friend named
7 Tyler Gassman and decided to implicate him based on this information alone.

8 **C. Dunham Implicates Statler, Gassman, and “Andy” / “Bobby”.**

9 4.10 With their sights set on Statler and Gassman, Marske and Francis began to
10 interrogate seventeen-year-old Matthew Dunham. On May 23, 2008, a month after his arrest
11 Matthew Dunham met with Marske and Francis for a “free talk.” Matthew Dunham told the
12 detectives that he committed the Turner/Hall robbery. He also told the detectives that he
13 committed an earlier drug-rip robbery on Dishman road. The Dishman robbery was
14 substantially similar to the Turner/Hall robbery and occurred only 28 hours earlier. However,
15 this time, Matthew Dunham provided Marske and Francis with the information that they had
16 been seeking. For the first time, Matthew Dunham not only implicated Anthony Kongchunji
17 but he also implicated for the first time Paul Statler, Tyler Gassman, and someone named
18 “Andy.”

19 4.11 Marske and Francis drove Dunham around the county wherein he pointed out
20 different residences and described robberies he was involved in or had been told about by
21 Kongchunji. Dunham continued to provide information to Marske and Francis that they
22 failed to follow up on, failed to obtain confirming information, and instead, recklessly

1 asserted that it implicated Statler, Gassman, and Larson in these crimes.

2 4.12 Five days later, on May 23, 2008, Matthew Dunham met again with Marske
3 and Francis. Dunham told the detectives he was also involved in a drug-rip robbery that
4 occurred on E. Cataldo. The E. Cataldo robbery was substantially similar to the Turner/Hall
5 and Dishaman robberies. It occurred at night and involved an assault on a known drug dealer
6 named Eric Weskamp. The suspects wore dark clothes and bandannas, and one had a
7 shotgun. As in the other robberies the robbers left in a red Nissan pickup. The robbery was
8 never reported. There was no investigation of the crime scene and no physical evidence was
9 recovered.

10 4.13 Again, Dunham told Marske and Francis that he committed the E. Cataldo
11 robbery with Anthony Kongchunji, Paul Statler, Tyler Gassman, and someone named
12 “Andrew.” Matthew Dunham repeated the name “Andrew” several times. The Detectives
13 claimed that they tried to identify “Andrew” however their reports contained no information
14 regarding his race, height, address, or relationship to Dunham.

15 4.14 Within one week of the second meeting, on June 4, 2008, Matthew Dunham
16 obtained a plea agreement with the prosecutor. Dunham faced 30 to 40 years in prison for the
17 crimes that he had committed. Dunham admitted to three armed robberies and faced decades
18 in prison, but the State promised to recommend an “exceptional” sentence of less than 18
19 months in juvenile detention and that is what he ultimately received. In return, Dunham
20 agreed to testify against his alleged “accomplices.”

21 4.15 Shortly after Matthew Dunham entered into his plea agreement, Marske and
22 Francis learned Paul Statler had a cousin named Robert “Bobby” Larson. Within hours of
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1 learning this information the detectives met with Dunham once again and for the first time
2 Dunham's response changed from "Andrew" to "Bobby." Dunham also told them that
3 "Bobby" is Paul Statler's cousin. Dunham had never met Robert Larson and the only way
4 that Dunham would have received this information to change his statement was from Marske
5 and Francis.

6 4.16 Marske did not document these interviews and did not put any of the
7 information from these interviews into a report. The manner in which Dunham provided this
8 new and previously unknown information was extremely significant and was exculpatory.
9 Marske failed to document this information and it was not provided to the defense. Marske
10 then destroyed the original investigative files.

11 4.17 Larson, Gassman, and Statler were arrested and agreed to talk to Marske and
12 Francis. Each told them that they had nothing to do with the robberies and maintained their
13 innocence.

14 4.18 Based on the information provided by Dunham the State charged Paul Statler,
15 Tyler Gassman, and Robert Larson with one count of first degree robbery, two counts of first
16 degree attempted murder, or first degree attempted assault in the alternative, and two counts
17 of drive-by shooting. Each count included a firearm enhancement.

18 **D. Marske and Francis recklessly change the date of the robbery in order to
19 avoid the Plaintiffs alibi defenses.**

20 4.19 Marske and Francis' reports indicated that the E. Cataldo robbery occurred on
21 April 15, 2008. The information filed on July 28, 2008, alleged that the crimes had taken
22 place "on or about April 15, 2008." Larson and Statler presented the prosecutor with
23 documented alibis for the date of the E. Cataldo robbery. Larson clocked in at work at 9:48

1 p.m. the evening of April 15, 2008, and he remained at work until 6:31 a.m. the following
2 morning. Statler was home that evening taking a VICAP test, which is a home breathalyzer
3 exam with video. At 10:01 p.m. on April 15, 2008 Statler blew into the VICAP machine
4 while his picture was taken simultaneously. These alibi defenses were strong and disproved
5 the State's theory of the case.

6 4.20 Marske and Francis set to work to come up with a theory that would avoid
7 these alibi defenses. Francis met with Kyle Williams, a witness to the robbery, on October
8 29, 2008. He told Williams that they were trying to come up with the date of the robbery
9 (although they had already provided a date in the affidavit of probable cause). According to
10 Francis' report, Williams told him that he was able to locate a phone call from "Rob" that he
11 had received at 0108 hours on April 18, 2008. From this, Francis allegedly deduced that the
12 robbery would have occurred at about 2200 to 2300 hours on April 17, 2008. Williams
13 provided Francis with a one page phone print out containing the single call. Francis
14 investigated the phone number and confirmed that it belonged to Rob Siler. Francis did not
15 follow up and obtain additional phone records, did not obtain phone records for April 14, 15,
16 or 16 of 2008 or any other day or perform any investigation to verify the date of the crime.
17 Instead, Francis recklessly relied on a single page phone record and then sent an e-mail to the
18 prosecutor that the date of the crime could be changed to April 17, 2008 instead of April 15,
19 2008 therein singlehandedly eliminating Statler, Larson, and Gassman's alibi defenses.

20 4.21 On January 12, 2009, based on information received from Marske and Francis
21 in October, the State moved to amend the Information to "on or about April 17." Trial
22 counsel opposed the motion to amend, and the court held a hearing on January 12, 2009. The
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1 court granted the State's motion to amend, and the trial date was continued for three weeks to
2 February 2, 2009. In granting the motion to amend the court noted the importance of the date
3 change in this particular case stating that the amendment "changes the landscape considerably
4 if you have an alibi defense and you suddenly find that the date is different. You don't have
5 an alibi maybe anymore." The date change changed the landscape of the case considerably.
6 It was done haphazardly and recklessly without performing any investigation. It was done
7 without verifying the phone records from the date that the crime was originally thought to
8 have occurred – which is the date that the crime most likely did occur. It was done without
9 investigating Eric Weskamp's work records or any information to verify when the crime
10 actually occurred. This investigation would have lead to material exculpatory evidence.
11 Proper investigation by Francis would have revealed that this date change was incorrect and
12 that the crime actually occurred on April 15, 2008 as originally provided by Marske in the
13 affidavit of probable cause. This includes, but is not limited to, the failure to investigate Eric
14 Weskamp's work record. Had this occurred Marske and Francis would have found that the
15 information from Rob Siler was wrong. Eric Weskamp left work early on April 16, 2008
16 from injuries that he sustained in the robbery the night before.

17 **E. Marske threatens Anthony Kongchunji not to testify in Plaintiffs' defense.**

18 4.22 On January 26, 2009, shortly before the new trial date, Anthony Kongchunji
19 entered a plea and was sentenced. The next day, January 27, 2009, he came forward and
20 contacted Statler, Gassman, and Larson's attorneys. He told them that Statler, Gassman and
21 Larson were innocent and agreed to testify in their defense. He told them that the crime was
22 perpetrated by himself, along with Matthew Dunham, Larry Dunham, and Nicholas Smith.

1 That same day a motion for an order holding Kongchunji as a material witness was filed. The
2 motion stated specifically that Anthony Kongchunji would testify that Mr. Statler was not
3 present at the robbery / criminal incident described in the above captioned information and the
4 anticipated testimony was material and crucial to Mr. Statler's defense.

5 4.23 The next day, Marske transported Kongchunji to a meeting with the prosecutor
6 and the defense attorneys. Having learned that Kongchunji intended to testify in Statler,
7 Larson, and Gassman's defense, Marske threatened to charge Kongchunji with perjury. This
8 threat was patently false as Kongchunji's prior statement had not been under oath and no
9 charges could be brought. However, Marke's threats had their desired effect on Kongchunji.
10 When Kongchunji arrived at the meeting with the prosecutor and defense team he had
11 completely changed his position. He would not look at the defense attorneys and merely said
12 that he wanted to go to prison. He refused to testify at trial and told them that if he was called
13 he would not testify. Based on Marske's direct threats and intimidation which were meant to
14 prevent this witness from testifying Kongchunji was not called to testify in Statler, Larson,
15 and Gassman's defense.

16 4.24 On February 9, 2009, Statler, Gassman, and Larson were tried jointly for the E.
17 Cataldo robbery. Anthony Kongchunji did not testify and they were convicted based on the
18 snitch testimony of Matthew Dunham alone. Paul Statler was sentenced to 41.5 years in
19 prison. Tyler Gassman was sentenced to 25.75 years in prison. Robert Larson was sentenced
20 to 20 years in prison.

21 4.25 In April, 2009 the Turner/Hall case went to trial. On April 21, 2009, Anthony
22 Kongchunji was called to testify on behalf of Statler, Gassman, and Larson. Anthony
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1 Kongchunji testified just as he would have testified in the E. Cataldo case. He testified that
2 the crime was committed by Matthew Dunham, Larry Dunham, Nicholas Smith, and himself.
3 He testified that Paul Statler, Tyler Gassman, and Robert Larson had nothing to do with the
4 Turner/Hall case. The jury found Statler, Gassman, and Larson not guilty of the charges.

5 4.26 The State dismissed the charges in all other cases brought against Statler,
6 Gassman, and Larson related to the drug-rip robberies.

7 4.27 Paul Statler, Robert Larson, and Tyler Gassman did not commit any of the
8 crimes that they were accused of. After over four long years in prison Statler, Gassman, and
9 Larson sought to have their convictions vacated based on newly discovered evidence. This
10 evidence included evidence that the crime actually occurred on April 15, 2008 as opposed to
11 April 17, 2008 which Francis and Marske claimed. It also included the testimony of Anthony
12 Kongchunji that none of them were involved in the crime. Subsequently, Anthony
13 Kongchunji has testified under oath that he committed the E. Cataldo robbery with Nick
14 Smith, Matthew Dunham and Larry Dunham. He testified consistently that Paul Statler,
15 Robert Larson, and Tyler Gassman had nothing to do with any of these robberies.
16 Kongchunji's testimony was material and would have made a difference in the outcome of the
17 E. Cataldo case.

18 4.28 An internal investigation into Marske's and Francis' investigation was
19 conducted by the Spokane County Sheriff's Office. The internal investigation revealed that
20 the investigations were conducted in a substandard and reckless manner, mistakes and
21 assumptions were made, witnesses were not interviewed, cell phone records were not
22 obtained, evidence was not submitted to the crime lab, credibility issues were not
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1 investigated, numerous investigative steps were not taken, and inattention to detail occurred.

2 *As a result of my extensive review of the reports, affidavits and various other*
3 *documents related to this series of robberies, as well as my interviews with Sgt.*
4 *Marske and detectives Elliott, McCrillis and Pannell, I did find several instances*
5 *where those involved in the investigation could have been more thorough. I found*
6 *instances where mistakes and assumptions were made that had negative*
7 *ramifications on an investigation. I found examples where various investigative*
8 *steps could have been taken to further the investigations but weren't such as re-*
9 *interviewing victims and witnesses, identifying and interviewing potential*
10 *witnesses, obtaining cell phone records and submitting evidence to the crime lab.*
11 *I also found examples where victims, witnesses and suspects could have been*
12 *more thoroughly interviewed and contradictions in various victims and witnesses*
13 *statements should have been questioned and clarified. I noted numerous*
14 *instances where victims and/or witnesses with obvious credibility issues and*
15 *reasons to be untruthful appeared to be believed with little or no effort made to*
16 *confirm their veracity. I found numerous examples where investigative steps were*
17 *taken, such as recovering evidence or interviewing victims, that weren't*
18 *documented in reports or that weren't documented to the degree that they should*
19 *have been. Additionally, I found numerous apparent inaccuracies in probable*
20 *cause affidavits that appeared to be the result of inattention to detail in the*
21 *preparation or the inclusions of proposed testimony for which no supporting*
22 *statements could be found.*

13 These failures to conduct a proper and constitutionally adequate investigation both
14 individually and cumulatively deprived these three young men of a fair criminal proceeding
15 and a fair trial.

16 **F. Statler, Larson, and Gassman's convictions are vacated based on new**
17 **previously undisclosed evidence.**

18 4.29 In 2011, after Statler, Larson, and Gassman had been incarcerated for several
19 years the Innocence Project Northwest ("IPNW") conducted an investigation into this case.
20 The investigation revealed that the convictions had been obtained based on a faulty police
21 investigation that failed to obtain critical evidence. This included the failure to obtain Eric
22 Weskamp's work records for the month of April, 2008. These records showed that he worked
23 every day Monday April 14, 2008 through Friday, April 18, 2008 except for Wednesday April

1 16, 2008 – the day after the robbery. Testimony at trial had established that Weskamp had
2 been sent home the day after the robbery placing the robbery on April 15, not April 17th.

3 4.30 Phone records were obtained post conviction that showed substantial collusion
4 between multiple parties including Matt Dunham and Rob Seiler one of the victims. Matt
5 Dunham had been the State's star witness and had testified that he did not know any of the
6 victims. The phone records obtained post-conviction established that he had been in
7 communication with one of the victims for several weeks before the robbery. Given the fact
8 that Rob Seiler was the individual who Francis had associated with the number given to him
9 by Kyle Williams in order to change the date these records were significant and were
10 important in establishing the credibility of the States primary witness – Matt Dunham.

11 4.31 Most significantly, Anthony Kongchunji came forward and provided
12 significant additional information about the crime, the individuals engaged, and completely
13 exonerated Statler, Larson, and Gassman with any involvement in the crime. Kongchunji also
14 confirmed that he would have provided this testimony at trial had he not been threatened by
15 Marske.

16 4.32 On December 14, 2012, Statler, Gassman, and Larson sought to have their
17 convictions vacated based on this new, previously undisclosed, evidence. The motions were
18 heard before the Honorable Michael P. Price who found that based on new, previously
19 undisclosed evidence, that the convictions should be vacated. Judge Price entered findings of
20 fact and conclusions of law on the motions on January 4, 2013 and vacated their convictions.

21 4.33 Even after the convictions were vacated Spokane County did not dismiss the
22 charges. Instead, it continued in its relentless pursuit of these three innocent young men. It
23

1 did so, even though there was no evidence supporting the claims against them and even
2 though Detective Marske had been accused of providing false information in an affidavit
3 several years earlier.

4 4.34 On May 31, 2013 the Honorable James Triplet entered an order dismissing the
5 charges against Robert Larson based upon insufficient evidence to proceed with trial.

6 4.35 On July 23, 2013 Judge Triplet entered orders dismissing the charges against
7 both Tyler Gassman and Paul Statler, again, based on insufficient evidence to proceed with
8 trial.

9 **V. FIRST CAUSE OF ACTION – FEDERAL CIVIL RIGHTS VIOLATION**
10 **UNDER 42 U.S.C. § 1983 BY SPOKANE COUNTY, MARSKE, AND FRANCIS**

11 5.1 Defendants Spokane County, Marske, and Francis' conduct constitutes a
12 deprivation of Plaintiffs' federally protected rights under color of law, including the rights to
13 due process and a fair trial guaranteed under the Fourteenth Amendments of the Constitution
14 of the United States and 42 U.S.C. § 1983, by failing to conduct a constitutionally adequate
15 investigation, recklessly failing to follow up regarding critical evidence and witnesses, failing
16 to document key events during the investigation, failing to investigate and obtain evidence
17 verifying the date of the crime, failing to turn over material exculpatory evidence, and by
18 threatening and intimidating a material witness. This evidence was material and would have
19 made a difference in the outcome. Defendants' violation of Plaintiffs' constitutionally
20 protected rights was done maliciously and with reckless disregard for Plaintiffs' constitutional
21 rights.

22 5.2 Defendant Spokane County failed to train and supervise its employees
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(including Det. Marske and Det. Francis) regarding proper investigatory practices, documentation and disclosure of exculpatory evidence, tampering with material witnesses, with deliberate indifference to the likelihood of constitutional violations and wrongful convictions in the absence of proper training. As a result, Det. Marske and Det. Francis used the improper and inadequate investigatory techniques described above and failed to properly document their actions in doing so, failed to follow up regarding material evidence, failed to document and turn over material exculpatory evidence, intimidated, and threatened a material witness, and otherwise fabricated evidence in order to obtain the Plaintiffs convictions. This misconduct has been ratified by Spokane County through an internal review process.

5.3 As a direct and proximate result of Defendants' violation of Plaintiffs' constitutional rights, Plaintiffs suffered damages, including punitive damages against both Det. Marske and Det. Francis, in an amount to be proven at trial.

VI. DAMAGES

6.1 As a direct result of Defendants' breach of their legal and constitutional duties and their other misconduct, neglect, acts, and omissions set forth above, Paul Statler, Tyler Gassman, and Robert Larson suffered the following in every year from their arrests in 2008 through their release in 2012, and even thereafter when the County refused to dismiss the charges against them: false imprisonment; deprivation of constitutional and legal rights; humiliation; fear; scorn; ridicule; indignities and embarrassment; degradation; personal physical bodily injury and sickness; pain and suffering; severe mental anguish; emotional distress; damage to reputation; loss of income; loss of earning capacity; incurred legal fees; loss of and restrictions on all forms of personal freedoms, and suffered other general and

special damages as a result of the defendants' wrongful actions described above to be proven with specificity at trial.

6.2 Paul Statler, Tyler Gassman, and Robert Larson spent over four years in prison for crimes they did not commit. Statler, Gassman, and Larson were wrongfully accused, and when the evidence showed that they were not the right suspects, their constitutional rights were violated over and over again by two aggressive detectives and an apathetic County dead set on convicting these three innocent men and keeping them imprisoned. They lost years of their lives. These damages are ongoing and will continue to impact the Plaintiffs for the rest of their lives.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request a judgment against Defendants SPOKANE COUNTY, DOUGLAS MARSKE AND WILLIAM FRANCIS:

- (a) Fashioning an appropriate remedy and awarding general, special, and punitive damages, including damages for pain, suffering, terror, and loss of consortium, pursuant to 42 U.S.C. §§ 1983 and 1988, in an amount to be proven at trial;
- (b) Awarding reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988, or as otherwise available under the law;
- (c) Declaring the defendants jointly and severally liable;
- (d) Awarding any and all applicable interest on the judgment; and
- (e) Awarding such other and further relief as the Court deems just and proper.

VIII. JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs hereby demand a jury for all issues so triable.

DATED this 2nd day of December, 2015.

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**COMPLAINT FOR DAMAGES AND
FOR VIOLATIONS OF CIVIL RIGHTS - 19 of 19**

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